IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 4858-CAT of 2002

Date of Decision : 27.09.2006

Rakesh Kumar .... Petitioner

Versus

Central Administrative Tribunal and others. ... Respondents

CORAM : Hon'ble Mr. Justice J.S. Khehar,
Hon'ble Mr. Justice S.D. Anand.

Present : Mr. Sunil K. Chaudhary, Advocate,
for the petitioner.

Mr. Namit Kumar, Advocate,
for respondent Nos. 2 and 3.

J.S. Khehar, J. (Oral)

The petitioner's father – Sh. Bal Krishan, died in harness on 1.5.1997. At the time of his death, Sh. Bal Krishan was holding the post of Postmaster. On account of the death of his father in harness, the petitioner moved an application for appointment on compassionate grounds. The claim of the petitioner along with 54 other similarly circumstanced individuals was placed for consideration before the Circle Relaxation Committee. It would be pertinent to mention, that the quota for appointment on compassionate grounds is limited to 5%, and further, that in the 5% quota available at the time when the claim of the petitioner was considered, only two posts could be filled up on compassionate grounds. The pleadings in the instant case reveal, that the Circle Relaxation Committee after considering the claims of all the 54 applicants including the petitioner made a recommendation on 15.1.2001 in favour of two applicants other than the petitioner. The

recommendation made by the Circle Relaxation Committee was accepted by the Chief Postmaster General, Punjab Circle, Chandigarh. On the basis of the acceptance of the aforesaid recommendation, the petitioner was informed that his request for appointment on compassionate grounds had been rejected through a communication bearing Endst. No. B-4/15/Rakesh Kumar dated 22.2.2001 (Annexure P/4).

The communication dated 22.2.2001 was impugned by the petitioner by filing Original Application No. 674/CH/2001 before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh. The Tribunal by its order dated 14.1.2002 dismissed the claim of the petitioner. It is, therefore, that the petitioner has impugned before this Court the order dated 22.2.2001 as well as the determination at the hands of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh dated 14.1.2002.

We have considered the submissions of the learned counsel for the petitioner. The first contention raised by the petitioner is, that the father of the petitioner having died before the introduction of the Scheme dated 9.10.1998 (Annexure P/6), it was wholly unjustified for the respondents to consider his claim under the aforesaid Scheme as also to reject his prayer for appointment on compassionate grounds by referring to the said Scheme. Insofar as the instant prayer of the learned counsel for the petitioner is concerned, it would be relevant to mention, that the petitioner had submitted his application form seeking appointment on compassionate grounds for the first time on 20.10.1999. His request was received by the respondents on 20.10.1999, although, the same was dated 12.1.1999. Having examined the controversy in hand, we are of the view, insofar as the determination at the hands of the respondents is concerned, the order dated 22.2.2001 (Annexure

P/4) does not make any reference to the policy instruction on the basis of which the aforesaid submission has been made by the learned counsel for the petitioner. The only basis for declining the prayer of the petitioner for appointment on compassionate grounds is, that while considering the applications of 54 persons similarly situated as the petitioner, who had applied for appointment on compassionate grounds, the Committee made a choice of the two most indigent amongst them i.e. the poorest amongst the poor, and found them to be entitled to compassionate appointment as a matter of priority over the claim of the petitioner. The aforesaid basis is not subject matter of challenge at the hands of the petitioner, inasmuch as, the petitioner has neither impleaded the two candidates selected for appointment on compassionate grounds as party respondents, nor compared the financial circumstances of the petitioner vis-a-vis the selected candidates. In the aforesaid view of the matter, we have no alternative but to accept the findings recorded by the Circle Relaxation Committee, that the financial circumstances of the two candidates selected were more harsh and severe than the financial circumstances of the petitioner. Since, the authorities could have filled up only two posts by way of appointment on compassionate grounds, we are of the view, that short listing the two candidates with the severest financial circumstances was fully justified.

The second contention of the learned counsel for the petitioner emerges from the policy instructions dated 9.10.1998 (Annexure P/6). From the said instructions, learned counsel has invited our attention to paragraph 12 thereof, wherein the procedure for making appointments has been delineated. In fact, our kind attention was invited to Clauses (c) and (d) thereof. Accordingly, Clauses (c) and (d) of paragraph 12 of the policy

instructions dated 9.10.1998 are being extracted hereunder:

> "c) An application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of personnel and Training (Establishment Division) on the subject by a Committee of Officers consisting of three Officers – one Chairman and two Members – of the rank of Deputy Secretary/Director in the Ministry/Department and Officers of equivalent rank in the case of Attached and Subordinate Offices. The Welfare Officer may also be made one of the Members/Chairman of the Committee depending upon his rank. The Committee may meet during the second week of every month to consider cases received during the previous month. The applicant may also be granted personal hearing by the Committee if necessary, for better appreciation of the facts of the case.
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> d) Recommendation of the Committee should be placed before the competent authority for a decision. If the competent authority disagrees with the Committee's recommendation, the case may be referred to the next higher authority for a decision."

Relying upon the aforesaid policy instructions, learned counsel for the petitioner vehemently contends that it was imperative for the competent authority to accept the findings of the Circle Relaxation Committee, and only on the acceptance thereof, the findings of the Circle Relaxation Committee could be implemented/enforced. Having perused the impugned order dated 22.2.2001 (Annexure P/4), we are satisfied, that the instant contention of the learned counsel for the petitioner is wholly misconceived.

A perusal of the impugned order dated 22.2.2001 clearly reveals that the order under reference had been passed at the behest of the determination at the hands of the Chief Postmaster General, Punjab Circle, Chandigarh (Vide reference No. Rectt./4-22/99 dated 15.2.2001). In view of the above, it is apparent, that the recommendation made by the Circle Relaxation Committee had been accepted by the Chief Postmaster General, Punjab Circle, Chandigarh, and the aforesaid decision was conveyed to the petitioner by the Senior Superintendent of Post Offices, Chandigarh on 22.2.2001. The factual position noticed herein above clearly demonstrates, that the procedure envisaged by Clauses (c) and (d) of paragraph 12 of the policy instructions dated 9.10.1998 was duly applied with.

No other contention was raised by the learned counsel for the petitioner.

For the reasons recorded above, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

September 27, 2006 (S.D. Anand)
vkd Judge